

REMARKS

This Amendment is in response to the Second Non-Final Office Action dated December 14, 2004 (the "Action").

The Action objects to the drawings under 37 C.F.R. § 1.82(a), and objects to the term "about" in Claim 11. Claims 4-6 stand rejected under 37 C.F.R. § 112, second paragraph. Claims 1-4, 7, 8, 10 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by newly cited U.S. Patent No. 2,185,161 to Tinnerman ("Tinnerman"). Claims 6 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tinnerman in view of U.S. Patent No. 2,161,648 to Widman ("Widman").

It is noted that the objection to the drawings and Claim 11 and the rejection of Claims 4-6 under § 112 were not raised in the Non-Final Office Action dated July 30, 2003 that was issued in connection with the examination of the parent application to this divisional or in the First Non-Final Office Action dated September 7, 2004 and the Final Office Action dated November 12, 2004 that were issued in connection with the examination of the present application.

Applicants appreciate the Examiner's indication that Claim 5 would be allowable if rewritten to overcome the § 112 rejection and to include all of the limitations of the base claim and any intervening claim. Claim 5 has been rewritten in independent form and satisfies the requirements of § 112. Therefore, Claim 5 is in condition for allowance, and Applicants request an indication of same.

In light of the above amendments and the remarks below, Applicants submit that Claims 1-4 and 6-11 and new Claim 13 are in condition for allowance and that the drawings satisfy all statutory requirements.

I. The Objection to the Drawings is Improper

In objecting to the drawings under 37 C.F.R. § 1.82(a), the Action states that "[t]he presents [sic] set of claims is directed to the embodiment illustrated in Figure 1...The drawing (Figure 1) however, fails to illustrate the first and second confronting furniture components and how the base is attached to one of those components." *See* the Action, page

2. The Action appears to ignore Figures 2-11, which clearly illustrate the first and second confronting furniture components and how the base may be attached thereto. There is no basis under 37 C.F.R. § 1.82(a) or any other statutory provision for the Action's apparent refusal to consider features in Figures 2-11. Section 1.82(a) merely states that the drawings in a nonprovisional application must show every feature of the invention specified in the claims. Figures 1-11 clearly satisfy this requirement.

The Restriction Requirement made by the Examiner is not a restriction based on the figures, but rather a restriction based on inventions as defined by the claims. As noted in the current Action, in the parent application, the Applicants elected to examine Group II claims, "drawn to claims 12-53." See, the Action, page 8 "Response to Arguments." Therefore, the Restriction Requirement was made between Claims 1-11 and 12-53, and Claims 1-11 are currently under examination.

Figures 1-11 merely illustrate exemplary embodiments of the invention, and the invention is defined by the claims. Claims 1-11 read on the embodiments illustrated in Figure 1-11, and the claims are not restricted by the illustrated embodiments. For example, Claim 1 as amended recites as follows:

a base member having opposite first and second faces, the first face adapted to contact the first furniture component, the base member having a cushioning projection extending outwardly from the second face of the base member and covering a void within the base member, the projection adapted to contact the second furniture component as it confronts the first furniture component; and

a clip connected to the base member and configured to attach the device to one of the first or second furniture components.

As shown in the exemplary embodiments illustrated in **Figures 2-3**, a clip **10** includes a compressible cushion **126** (which serves as the cushioning projection) that covers a void **124**. The compressible cushion **126** is on a vertical segment **11** (which serves as the base member) and has opposite first and second faces. The first face of the base is adapted to contact a first furniture component **15** and the cushion **126** is adapted to contact a second furniture component **13** as it confronts the first furniture component **15**. Therefore, Claim 1 reads on the embodiments illustrated in **Figures 2-3**. Similarly, Claim 1 also reads on

Figures 4-11, and all of the figures may be relied upon as support for the recitations contained in the claims.

Moreover, it is noted that the recitations of the claims are not restricted to embodiments illustrated in the figures. On page 9, line 32 – page 10, line 10 of the application, it is explicitly stated that, although a few exemplary embodiments are illustrated, those skilled in the art will readily appreciate that many modifications are possible and that all such modifications are intended to be included within the scope of this invention as defined by the claims. As stated in numerous sections of the M.P.E.P., during patent examination, the claims are given the broadest reasonable interpretation consistent with the specification. See, e.g., M.P.E.P. §§ 904.01 (*citing In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997) and 2111 (*citing In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000)).

For these reasons, Applicants submit that the drawings satisfy all of the requirements of 37 C.F.R. § 1.83(a) and request that the objection be withdrawn. However, if the objection is maintained, Applicants respectfully request that the specific basis (e.g., in Title 35, Title 37, or any USPTO procedures) for the objection and apparent refusal to consider features in **Figures 2-11** be pointed out.

II. The Term "about" in Claim 11 is Proper

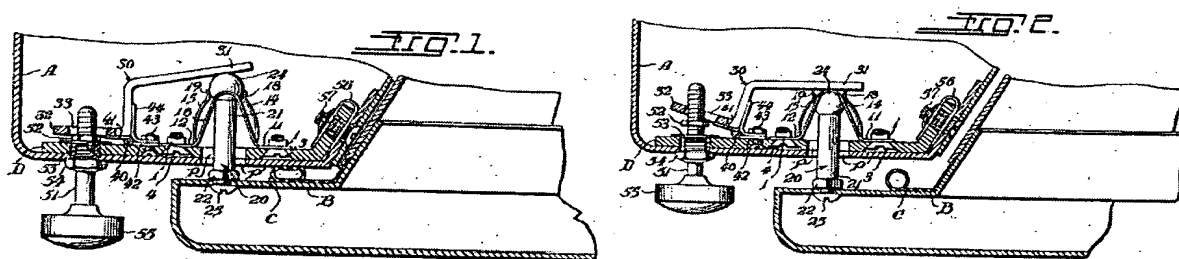
The term "about" is proper in the context of Claim 11. As discussed in the M.P.E.P. § 2173.05(b)(A.), the term "about" has been held to be "clear, but flexible." (*citing Ex parte Eastwood*, 163 U.S.P.Q. 316 (Bd. App. 1968)). Accordingly, Applicants request that the objection to Claim 11 be withdrawn.

III. Claims 4-6 Satisfy the Requirements of 35 U.S.C. § 112

Claim 4 has been amended to recite that "the base member has a planar portion opposite the convex portion across from the void." Applicants submit that Claims 4-6 satisfy the requirements of § 112 and request that the rejection be withdrawn.

IV. Claims 1-4 and 6-11 are Patentable over Tinnerman

The Action characterizes element **C** in Tinnerman as equivalent to the cushioning projection as recited in Claim 1. **Figures 1-2** of Tinnerman are reproduced below.



Tinnerman proposes a compressible rubber sealing strip C between the door and the door frame or casing. See, Tinnerman, page 1, col. 2, lines 38-40. As can be seen in **Figures 1-2** of Tinnerman, the sealing strip **C** appears to be attached to the wall member **B** by an adhesive.

Claim 1 now recites "a clip connected to the base member and configured to attach the device to one of the first or second furniture components." Tinnerman does not disclose at least this feature because the compressible rubber sealing strip **C** clearly does not include a clip and appears to be attached to the wall member **B** by an adhesive. In addition, Tinnerman does not provide any motivation to use a clip, and it is unclear how the compressible rubber sealing strip **C** of Tinnerman could be modified in this regard.

Accordingly, Tinnerman does not disclose all of the recitations of the claims as required under § 102, and Applicants request that the rejection of Claim 1 under § 102 be withdrawn. Claims 2-4 and 6-11 depend from Claim 1 and are likewise allowable.

In addition, Claim 4 is separately patentable for at least the following reasons. Claim 4 recites that the projection has a convex portion extending outwardly from the second face of the base member and the base member has a planar portion opposite the convex portion across from the void. The Action maintains that Tinnerman illustrates these features when the projection (sealing strip **C**) of Tinnerman is compressed as shown in **Figure 2**. Applicants disagree.

As clearly shown in **Figure 2**, when the sealing strip **C** is compressed, the strip **C** is flat on the portions opposite one another and adjacent the wall members **A, B**. The compressed sealing strip **C** is curved only on the sides between the wall members **A, B**. Therefore, Tinnerman does not disclose a planar portion opposite a convex portion as recited in Claim 4. Therefore, Applicants submit that Claim 4 is separately patentable and request an indication of same.

V. New Claim 13 is Patentable over Tinnerman

Claim 13 generally includes the recitations of original Claim 1 and further recites that the base member has a planar portion extending away from the cushioning projection on opposite sides thereof. Applicants submit that at least this recitation is not disclosed or suggested by Tinnerman. The compressible sealing strip **C** of Tinnerman includes a planar portion that extends on a single side of the circular portion of the strip **C**. In contrast, as illustrated, for example in **Figure 1** of the current application, the base **112** has a planar portion that extends away from the projection **114** on opposite sides thereof.

Tinnerman does not teach or suggest all of the recitations of Claim 13, and Applicants submit that Claim 13 is allowable and request an indication of same.

VI. Conclusion

In light of the above amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Accordingly, Applicants respectfully request allowance of the present application and passing the application to issue.

Respectfully submitted,



Laura M. Kelley
Registration No. 48,441
Attorney for Applicants